

May 9, 2013

**BY ELECTRONIC DELIVERY**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington DC 20554

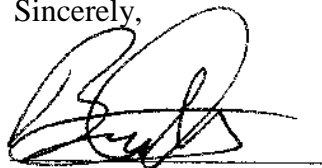
**Re: Progeny LMS, LLC**  
**Permitted Written *Ex Parte* Presentation**  
**WT Docket No. 11-49**

Dear Ms. Dortch:

Please find attached for inclusion in the above referenced docket a letter that was sent today by Gary Parsons, CEO of NextNav, LLC and Progeny LMS, LLC (“Progeny”) to PJ Wilkins, Executive Director, E-ZPass Group. This letter responds to correspondence addressing the above referenced docket that was sent by E-ZPass to numerous Commission officials without being subsequently filed with the FCC Secretary’s Office in apparent violation of Section 1.1206(b)(1) of the Commission’s *ex parte* rules.

Thank you for your attention to this matter. Please contact the undersigned if you have any questions.

Sincerely,



Bruce A. Olcott  
Counsel to Progeny LMS, LLC

May 9, 2013

PJ Wilkins  
Executive Director  
E-ZPass Group  
119 Lower Beech Street  
2<sup>nd</sup> Floor  
Wilmington DE 19805

**RE: FCC Wireless Telecommunications Bureau Docket 11-49**

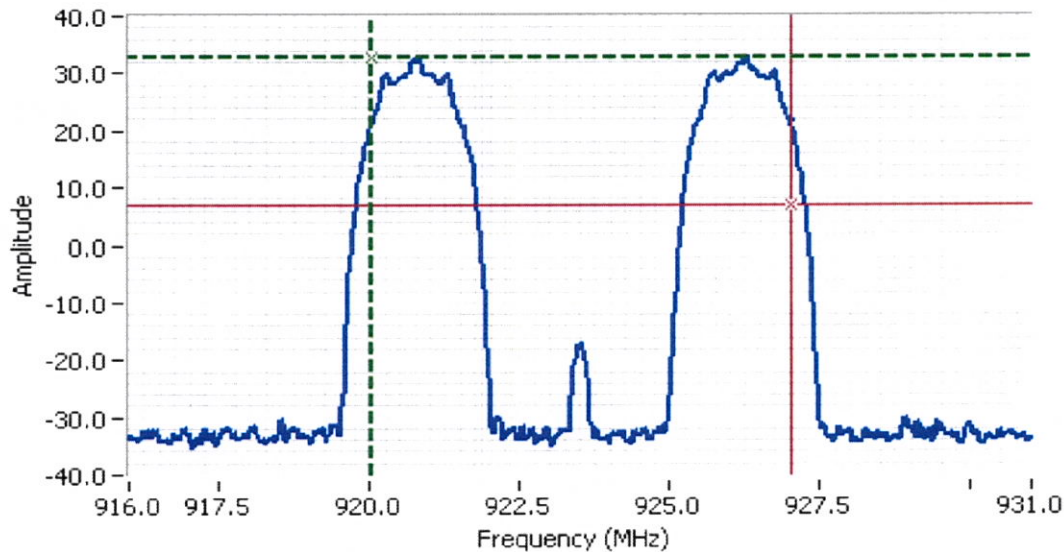
Mr. PJ Wilkins:

Thank you for your letter, dated May 1, 2013, regarding the concurrent use of different portions of the 902-928 MHz band by the E-ZPass Group for electronic toll collection and by NextNav, LLC and its affiliate, Progeny LMS, LLC ("Progeny") for wireless location determination to support E911 emergency services. We believe your letter provides an opportunity to bring clarification between our two companies regarding the ongoing ability of our respective services to share the 902-928 MHz band without resulting in harmful interference to either service.

Our company is dedicated to providing wireless location services that benefit public safety and help to reduce response times for emergency first responders. In this public service role, we fully recognize the substantial importance of the services that E-ZPass and others in your industry provide to the effectiveness and efficiency of interstate commerce. We assure you that we have no intention of operating our location service in any portion of the 902-928 MHz band in a manner that would result in harmful interference to electronic toll operations.

As you note in your letter, the 915 MHz frequency used by E-ZPass "is the same frequency that all electronic toll collection systems in the United States currently operate on, as well as in other systems such as the commercial vehicle highway weigh station preclearance system which is a major part of the U.S. Department of Transportation's Federal Motor Carrier Safety Administration's Commercial Vehicle Information Systems and Networks ("CVISN") program."

It is important to note, however, that Progeny is not authorized by the Federal Communications Commission ("FCC") to operate in the 915 MHz band, or reasonably near to it. Progeny's licenses authorize the provision of position location services using the 919.75-927.75 MHz band. Progeny's licenses also require Progeny to comply with very strict out-of-band emission limits that ensure that unintended emissions from Progeny's position location beacons do not extend significantly below 919.75 MHz. This is reflected in the FCC equipment certification test report for Progeny's transmitters, which show in the graph below that the emissions from our beacons diminish well below the noise floor at approximately 919.5 MHz.



**Bandwidth of Progeny Transmitter Beacons**

We recognize that the electronic toll equipment used by your industry does not limit its operations to exactly 915 MHz. Publicly-available industry literature suggests that the center frequency of your equipment may range from a low of 914 MHz to a high of 915.75 MHz. Further, the bandwidth of your signals may be around 2 MHz, meaning that the upper end of the transmission signals of your equipment may reach as high as 916.75 MHz. Nevertheless, such an upper edge would still be nearly 3 MHz below the lower edge of the Progeny signals. Given this fact, no possibility exists that Progeny's position location service could cause harmful interference to wireless toll collection systems.

In order to provide further assurance to your industry that Progeny's service will not cause harmful interference to electronic toll collection systems (referred to by the FCC as non-multilateration Location and Monitoring Services ("NM-LMS")), Progeny has offered the FCC the following relevant assurances:

- Progeny will provide regular reports (every six months) to the FCC on the status of its build out in each Economic Area.
- Progeny will also provide regular reports (every six months) on any complaints of unacceptable levels of interference to unlicensed devices or harmful interference to NM-LMS networks and the steps that Progeny is taking (or has taken) to address these complaints.
- Progeny will create a website and toll-free help desk to enable Part 15 device users and NM-LMS licensees to notify Progeny and seek assistance in investigating and mitigating potential interference issues.
- In the unlikely event of unacceptable levels of interference to Part 15 devices or harmful interference to NM-LMS systems in a particular location, Progeny will work cooperatively with the affected parties to mitigate the interference including potentially relocating M-LMS beacons (either horizontally, vertically, or to an entirely different location), substituting or modifying beacon antennas, or modifying antenna patterns, antenna heights, transmitter slot assignments, duty cycles, or a combination of the above.
- In the event NM-LMS licensees are utilizing the 919.75-921.75 MHz band, which is allocated to both services on a co-primary basis, Progeny will work with NM-LMS licensees to ensure the cooperative and shared use of the spectrum.

Finally, you have requested that Progeny agree to joint tests of our position location network with E-ZPass electronic toll collection equipment. As you may be aware, Progeny has already undertaken 18 months of independent and joint tests with Part 15 unlicensed devices, which *do* operate in the same spectrum as Progeny's service. We are aware that some parties continue to dispute whether these tests demonstrate that Progeny's service will not cause unacceptable levels of interference to unlicensed devices operating in the same spectrum as Progeny's service. None of Progeny's opponents, however, have ever claimed that the tests show that Progeny's service causes interference to services operating outside of Progeny's licensed spectrum. Given this fact, further testing with devices operating outside of Progeny's licensed spectrum lacks technical justification and is unnecessary. This said, we recognize your status as a co-primary licensee in the 902-928 MHz band and we will work with you as needed to ensure that the operation of our network does not result in harmful interference to the toll collection services of your industry.

Sincerely,



Gary Parsons  
Chief Executive Officer  
NextNav, LLC  
Progeny LMS, LLC

cc: ECFS WTB Docket 11-49